

ARKANSAS SUPREME COURT

No. CR 08-860

SVEN SCOTTY WARD
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered October 23, 2008

PRO SE MOTION FOR BELATED
APPEAL AND TO PROCEED *IN*
FORMA PAUPERIS [CIRCUIT COURT
OF PULASKI COUNTY, SEVENTH
DIVISION, CR 2007-600 & CR 2007-
368, HON. BARRY A. SIMS, JUDGE]

MOTION DENIED.

PER CURIAM

Two judgments entered on June 21, 2007, reflect that petitioner Sven Scotty Ward entered pleas of guilty to charges of aggravated robbery, possession of firearms, and theft of property in each of two separate cases in Pulaski County Circuit Court on June 19, 2007, and was sentenced to aggregate terms of 300 months' imprisonment in the Arkansas Department of Correction in each case. Petitioner now brings this pro se motion in which he seeks to appeal his convictions belatedly and asks to proceed *in forma pauperis*. Petitioner asserts as his basis for granting the motion that trial counsel failed to advise him of any motions that could be filed and that petitioner was advised by the circuit clerk that his pro se petition for postconviction relief under Ark. R. Crim. P. 37.1 was not timely filed.

Generally, under Arkansas Rules of Appellant Procedure--Criminal 1, there is no right to appeal a guilty plea, except for a conditional plea of guilty premised on an appeal of the denial of a suppression motion pursuant to Arkansas Rules of Criminal Procedure 24.3. *Hewitt v. State*, 362 Ark. 369, 208 S.W.3d 185 (2005) (per curiam) (citing *Seibs v. State*, 357 Ark. 331, 166 S.W.3d 16

(2004)). This court has recognized two other exceptions to the general rule, as follows: (1) when there is a challenge to testimony or evidence presented before a jury in a sentencing hearing separate from the plea itself; (2) when the appeal is an appeal of a posttrial motion challenging the validity and legality of the sentence itself. *Id.*

Petitioner does not contend, and the judgments do not reflect, that the guilty pleas were entered conditionally. The judgments do not indicate that petitioner was sentenced by a jury. The partial record before us does not contain a posttrial motion challenging the validity and legality of the sentence. In fact, petitioner asserts that he was not advised concerning the possibility of such a motion. He does not indicate that there was, in fact, any basis for such a motion, although he appears to contend that counsel was somehow obligated to file an appeal as a result of the failure to advise. In any event, there was no order entered concerning a posttrial motion to appeal. None of the recognized exceptions apply in this situation, and we have no jurisdiction for an appeal. *See Seibs*, 357 Ark. at 335, 166 S.W.3d at 18. Accordingly, we deny the motion for belated appeal.

Motion denied.